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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.408 OF 2003**

Radheshyam D. Hedao	...Applicant
VS.	
Central Bureau of Investigation and another	...Respondents
Mr.Rajendra Sorankar for the Applicant	
Mr.Ejaz Khan, Special P.P. for State	

**CORAM: A.S.OKA, J.
DATE : SEPTEMBER 13, 2005**

P.C.:

1. This Revision application is filed by the accused for challenging the Judgment and Order dated 17th June 2002 passed by the learned Special Judge for C.B.I., Greater Bombay by which the application made by the Applicant for discharge has been rejected.

2. The Applicant was at the relevant time working as Upper Division Clerk and was posted in Drawback Section at Nhavasheva Customs. The offence relates to dishonestly availing duty drawback to the tune of Rs.2,29,87,676/- in the name of nine firms without making any export. The allegation of the prosecution is that the accused persons had collected duty drawback cheques by submitting bogus authority letters in the name of different non existent persons on the basis of stamps and signatures of the bank officials. The said accused persons had collected duty drawback from Nhavasheva Customs by signing against non existent names on the Drawback cheques issue registers against total 61 shipping bills of the 9 accused persons in 1997-1998. The allegation against the

applicant is that he was concerned with the receipt of the shipping bills for processing the shipping bills for payment of drawback through receipt register but there is no entry of shipping bills of the nine firms in the said receipt register.

3. The learned Counsel for the Applicant submitted that there is absolutely no material on record to show that the Applicant received the shipping bills which are subject matter of the offence. Relying upon the Additional Affidavit filed by the Applicant and the chart annexed to the Application, he submitted that the Applicant was nowhere responsible for processing or clearing the relevant shipping bills. He pointed out that by the impugned order, the learned Special Judge has discharged two co-accused Sanjeev Kumar and Kasbekar who have played a major role. He submitted that this is a case where there is no material against the Applicant whatsoever.

4. The learned Counsel for the Respondent No.1 has placed on record the statements of various witnesses recorded during the investigation and submitted that no case is made out for discharge.

5. I have considered the submissions. The statements of various witnesses on which reliance is placed by the prosecution indicates that at the relevant time the duty of the Applicant was relating to receipt of triplicate copy of the shipping bills and handing over the same to the examiner

for processing. The statement of one of the witnesses Mr. Ramesh Nimje who was at the relevant time working as Lower Division Clerk with Customs is also relevant. The said person was working in Drawback section. He stated that after handing over of the passed shipping bills by Appraiser/AC to the Computer Section for entry and after entry they were handed over the Applicant for handing over the same in Accounts Section of drawback. There is a statement of one Mr. Manohar Marotrao Burade who was doing receipt work with the Applicant. The said statement also contains material against the Applicant.

6. At the stage of consideration of application for discharge, the Court is not required to sift and weigh the evidence on record. The only question to be considered is whether there is enough material at this stage to proceed against the Applicant.

7. In my view, there is sufficient material on record to proceed against the Applicant. The contentions which are raised by the Applicant are really the matter of evidence which cannot be gone into at this stage.

8. There is no merit in the Revision Application and the same is rejected.

9. Liberty to the Applicant to apply before the concerned Special Judge for expeditious disposal of the trial.

JUDGE